

February 21, 2019 Agenda

- 2017/2018 Enforcement Statistical Review
- Recommended Enforcement Decision
 - Salt River Construction Company
- Policy Briefing on Richardson's Bay, Marin County

Enforcement Strategy Development Third Presentation

December 13, 2018

Adrienne Klein, Schuyler Olsson and Matthew Trujillo

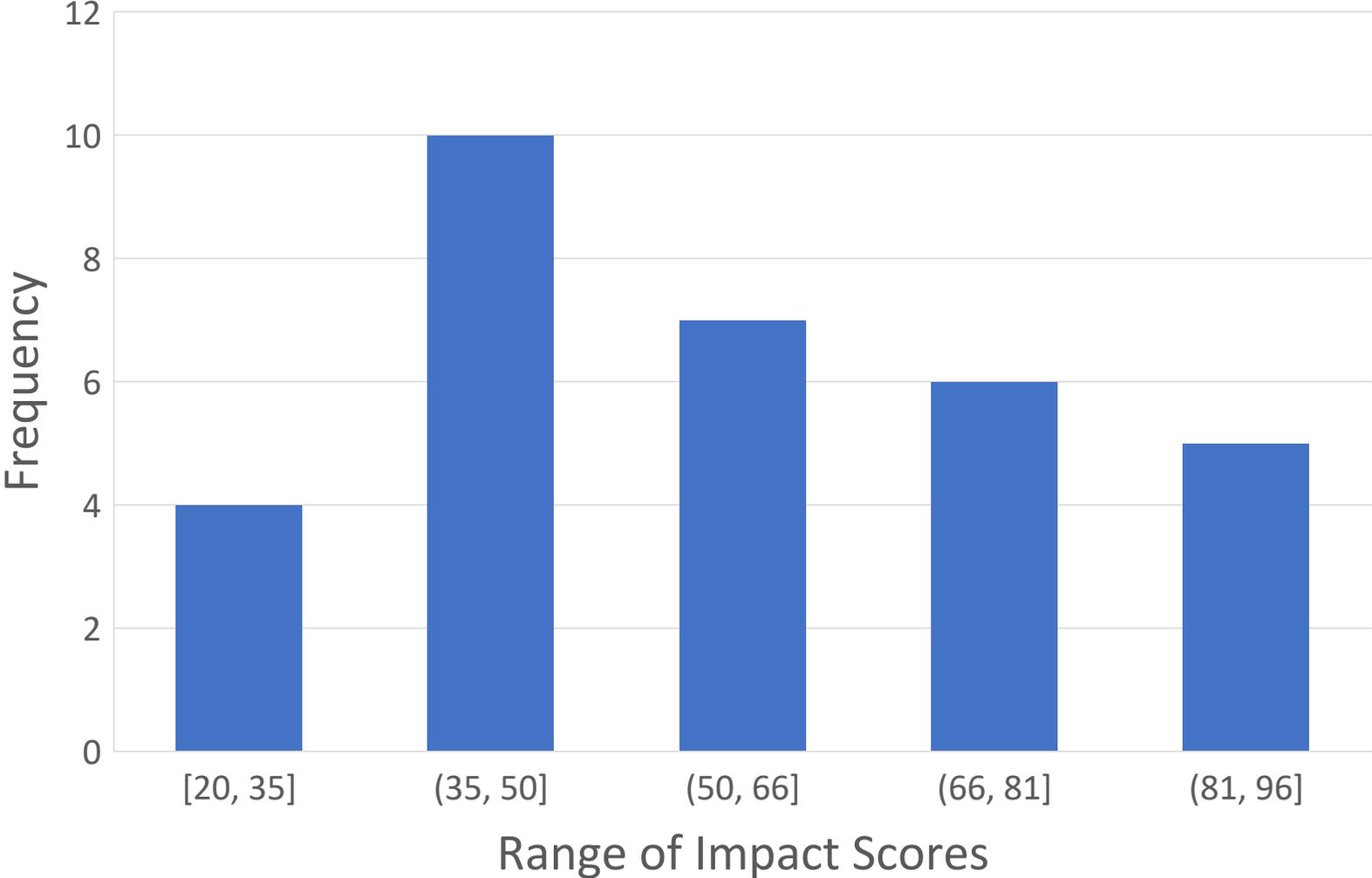
Presentation Outline

- Case Disposition
- Data Management
- Amnesty Options

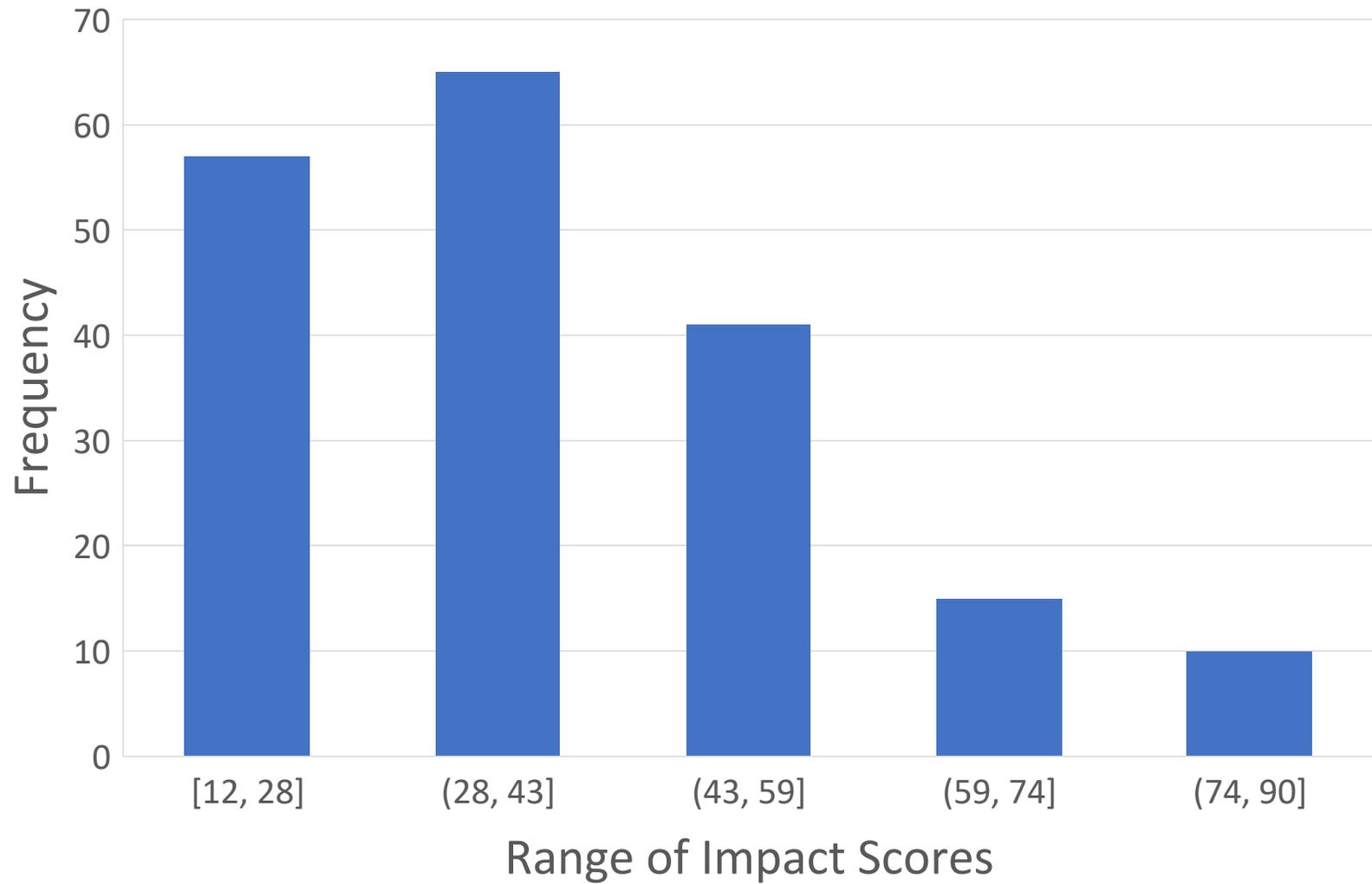
Open Case Disposition as of 12.7.2018

- 262 Enforcement Cases
 - 34 Active
 - 228 Inactive Cases (aka “The Backlog”)
- 40 Priority Cases (Physical Violations)
 - Impact Score = or > 60
 - 16 Active and 24 Inactive
- 222 Low Priority Cases (Primarily Physical Violations, Some Paper)
 - Impact score < 60
 - 18 Active and 204 Inactive

"Impact Score" Distribution: Active Cases



"Impact Score" Distribution: Inactive Cases



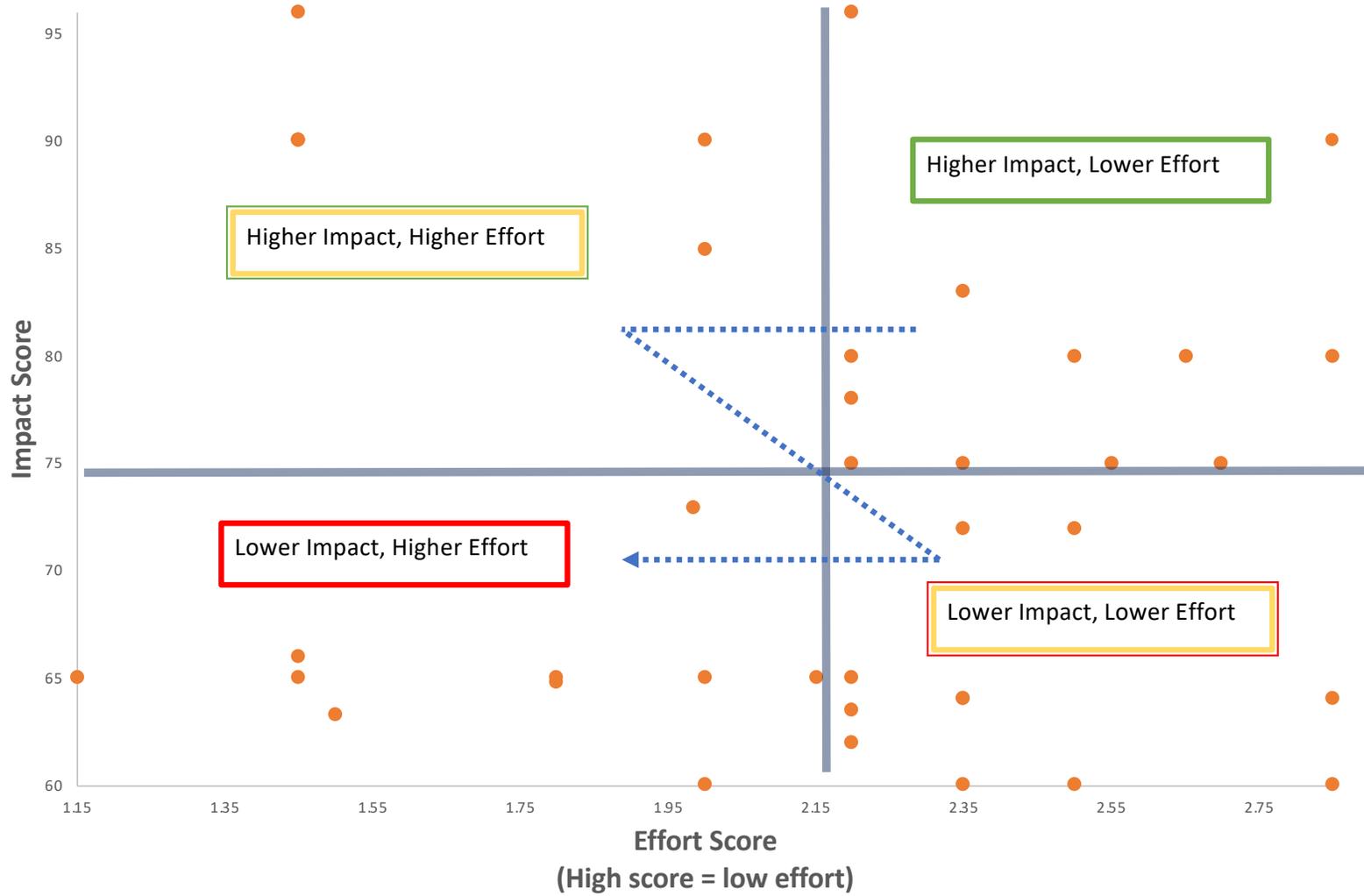
Prioritization Process: Impact Score Developed in 2017

- For **All** Physical Violations
- Impact Score
 - Habitat Value
 - Durability or Permanence
 - Toxicity and/or Ecosystem Effect
 - Amount and/or Size of Fill
 - Nature, Type of Use of Fill
 - Visibility
- High Impact = High Priority

Prioritization Process: Effort Score Added in 2018

- For **High Priority** Violations
- Effort Criteria
 - Responsiveness of Permittee/Respondent (35%)
 - Anticipated Complexity of Enforcement Mechanism (35%)
 - Staff Familiarity with Circumstances (15%)
 - External Agency Involvement (15%)
- High Effort = Low Score

Priority Cases Plot Chart: Effort vs Impact



ArcGIS Enforcement Database

Schuyler Olsson, Enforcement Analyst

December 13, 2018 | BCDC Enforcement Committee Meeting

Previous Enforcement Record Tracking System (Prior to Oct. 2018)

- Identical or similar data tracked in multiple locations:
 - Enforcement Report Form
 - Enforcement Log
 - Prioritization Spreadsheet
 - Existing BCDC GIS Database
- Challenges:
 - Inefficiency (e.g. updating same data in multiple places)
 - Inconsistency (e.g. records out of sync in different places; enforcement reports received in various forms)
 - Limited ability to track caseload in a nuanced way
 - Time-consuming reporting
 - Data inaccessible outside BCDC office

New ArcGIS Enforcement Database

(Launched in Oct. 2018)

- Consolidates multiple datasets into single online, georeferenced database
- Increases efficiency, accuracy, and consistency
- Accessible from any location
- Added data attributes for nuanced caseload tracking
- Simplifies reporting through generation of customized reports
- Codified workflow for case intake, investigation, and resolution
- Includes all cases except those resolved before 2002 (1,100+ records)
- Data entry nearly complete, but still being finalized



Enforcement

Enforcement staff investigates reports of illegal activities in BCDC's McAteer-Petris Act and Suisun Marsh Preservation Act jurisdictions, including alleged violations of BCDC permit requirements.

Anyone can report alleged violations to BCDC staff for investigation. Highest priority is given to reports that allege the most harm to the Bay's natural resources, or the greatest failure to provide public access or mitigation required by a BCDC permit.

If you believe you have witnessed a violation, please fill out an [online enforcement report form](#) or [contact us](#) to speak with a staff member. Please be prepared to share your contact information, a detailed description and location of the alleged violation, and photographs of the alleged violation (if possible) to aid in our investigation. If you provide an e-mail address, we will send you a follow-up e-mail to confirm that we have received your report. Feel free to e-mail any additional information or follow-up questions to report_violation@bcdcc.ca.gov.

Once Enforcement staff confirms that a violation exists, they work with the alleged violator to resolve the violation. The majority of violations are resolved at the staff level using the standardized fines provided in BCDC's regulations. However, the most serious violations are referred to the Commission's [Enforcement Committee](#) or to the State Attorney General's Office for prosecution.

BCDC Enforcement Report Form

Please complete all fields below to the best of your abilities. Mandatory fields are marked with a red asterisk. If you have any questions or prefer to file your report by phone, please call (415) 352-3600.

BCDC Permit

Please indicate the BCDC Permit Number (if known)

Vicinity of the Alleged Violation*

Please check all that apply

In the San Francisco Bay (including Richardson's Bay, San Pablo Bay, Suisun Bay, Grizzly Bay, and all marshes and tidelands)

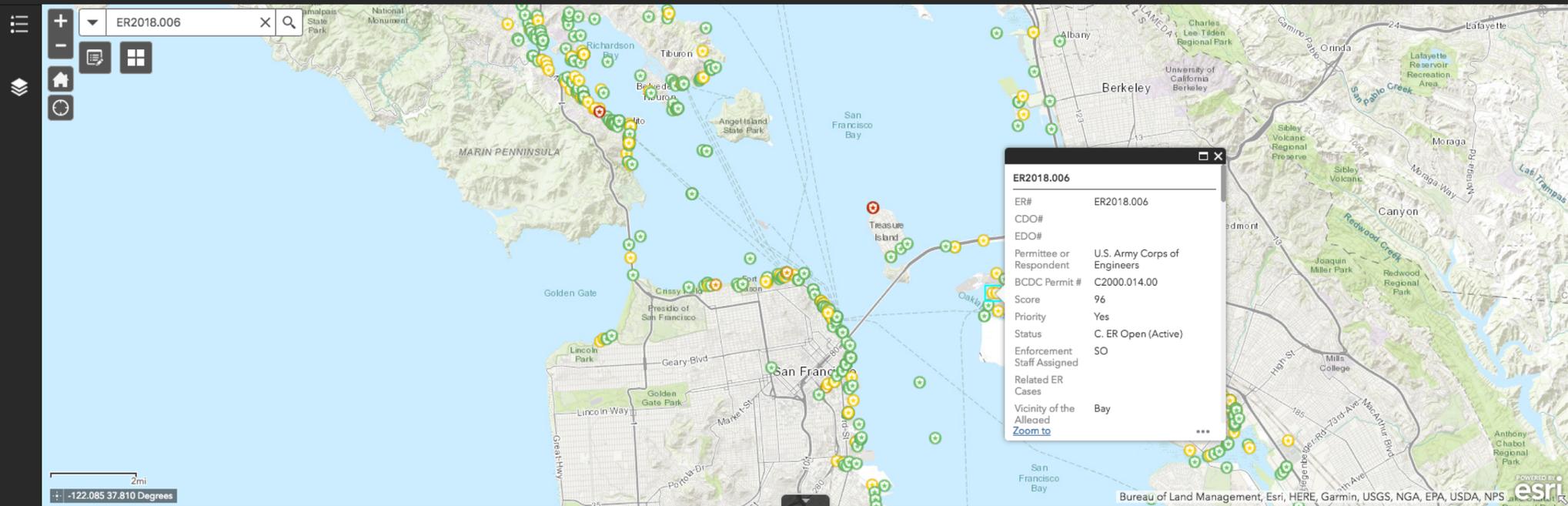
Within 100 feet of the shoreline of the San Francisco Bay

In the upland area designated with a Public Shore sign

In a tributary river, creek or slough of the San Francisco Bay

In a salt pond or its levees

In a duck club/managed wetland or its levees



BCDC Enforcement

Options Filter by map extent Zoom to Clear selection Refresh

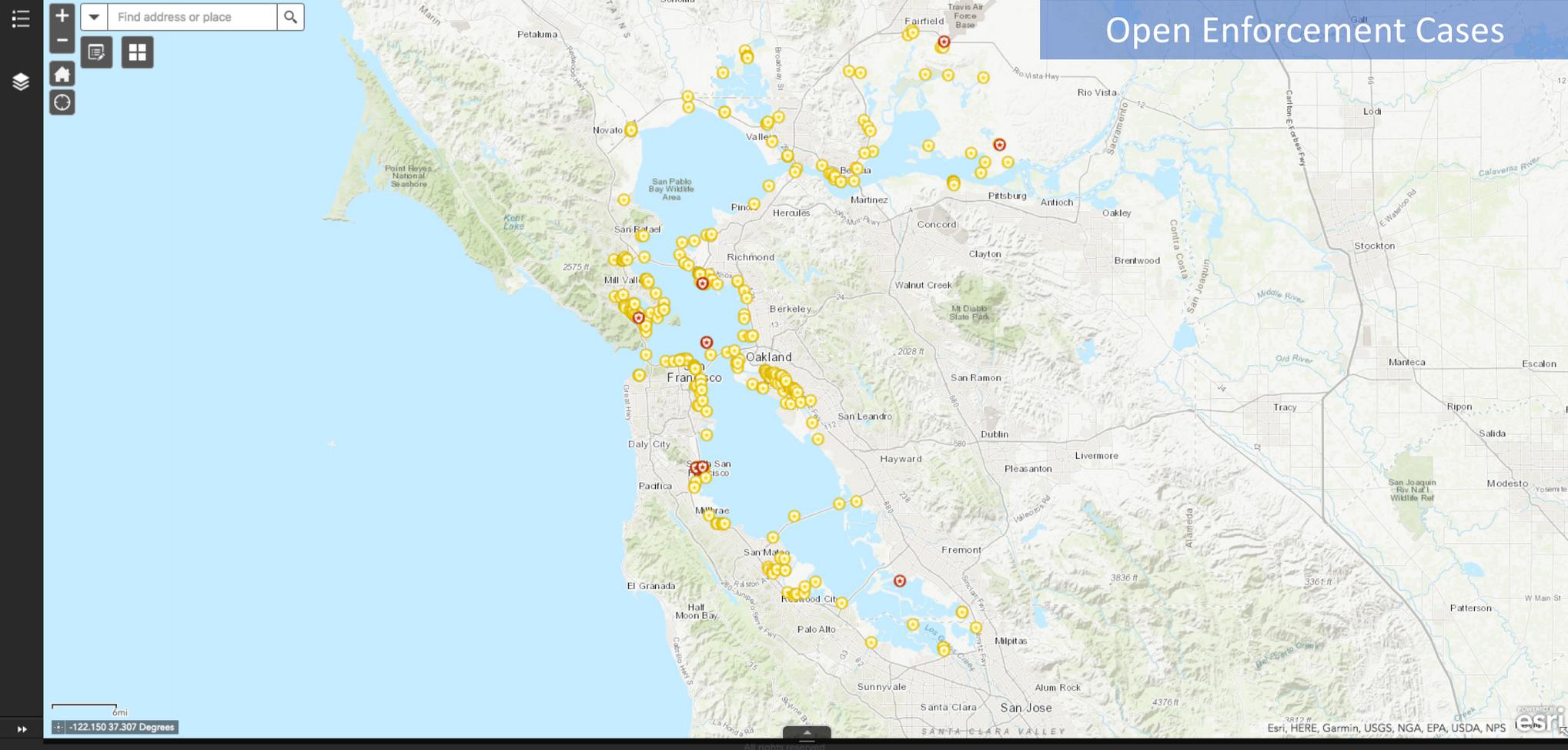
ER#	CDO#	EDO#	Permittee or Respondent	BCDC Permit #	Score	Priority	Status	Enforcement Staff Assigned	Related ER Cases	Vicinity of the Alleged Violation	Address of the Alleged Violation	APN	County	Description of the Alleged Violation	Date Report Submitted	Staff Notes	Date ER Case Opened	Date
ER2018.006			U.S. Army Corps of Engineers	C2000.014.00	96	Yes	C. ER Open (Active)	SO		Bay	Middle Harbor Enhancement Area (MHEA), Oakland, CA		Alameda	The USACE is years behind in delivering on several commitments for the Middle Harbor	2/21/2018	Request for remedial action sent on 11/06/2018. Proposal for action due on Feb 28 2019	4/16/2018	

1 features 0 selected

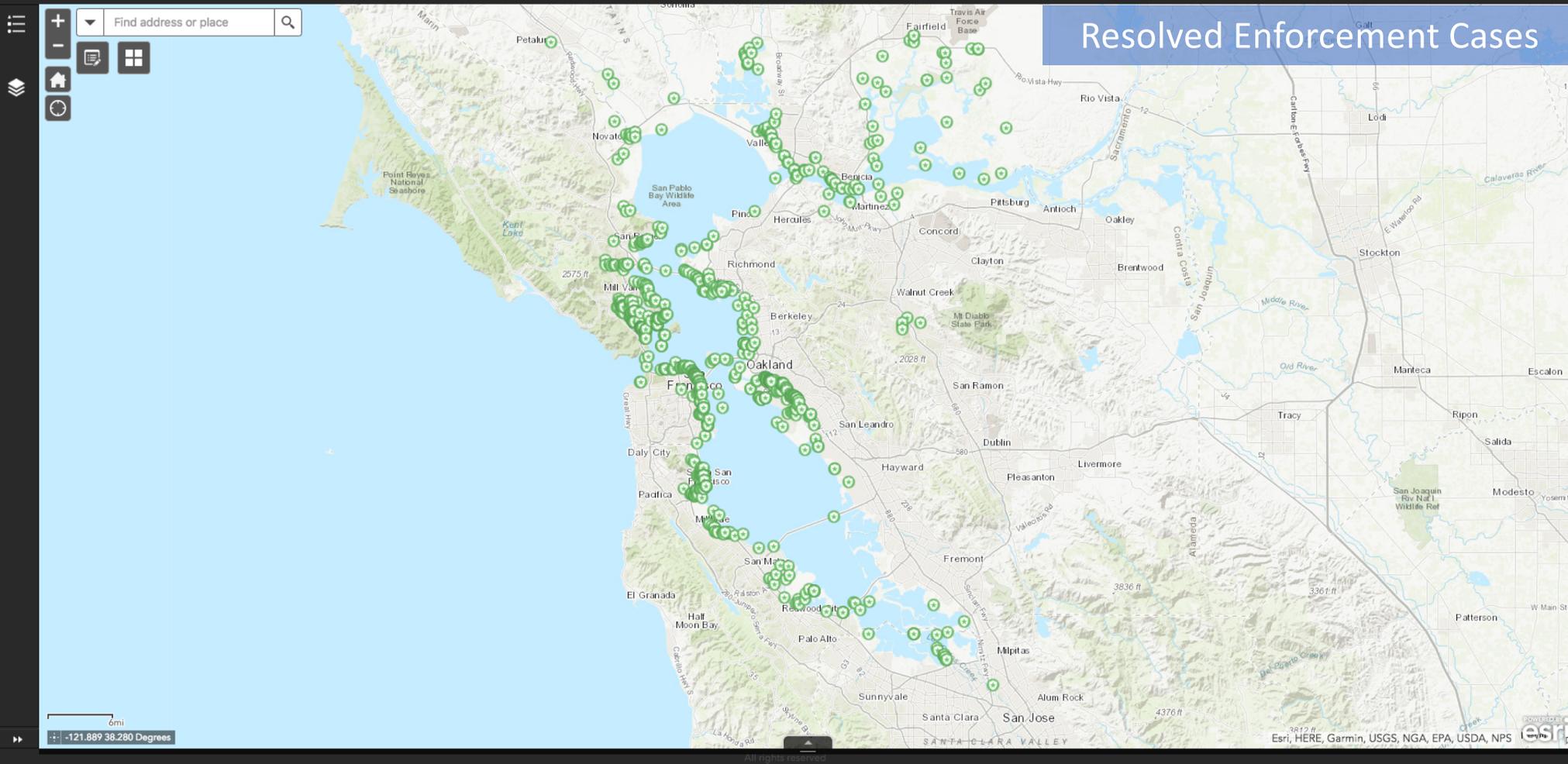
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Open Enforcement Cases

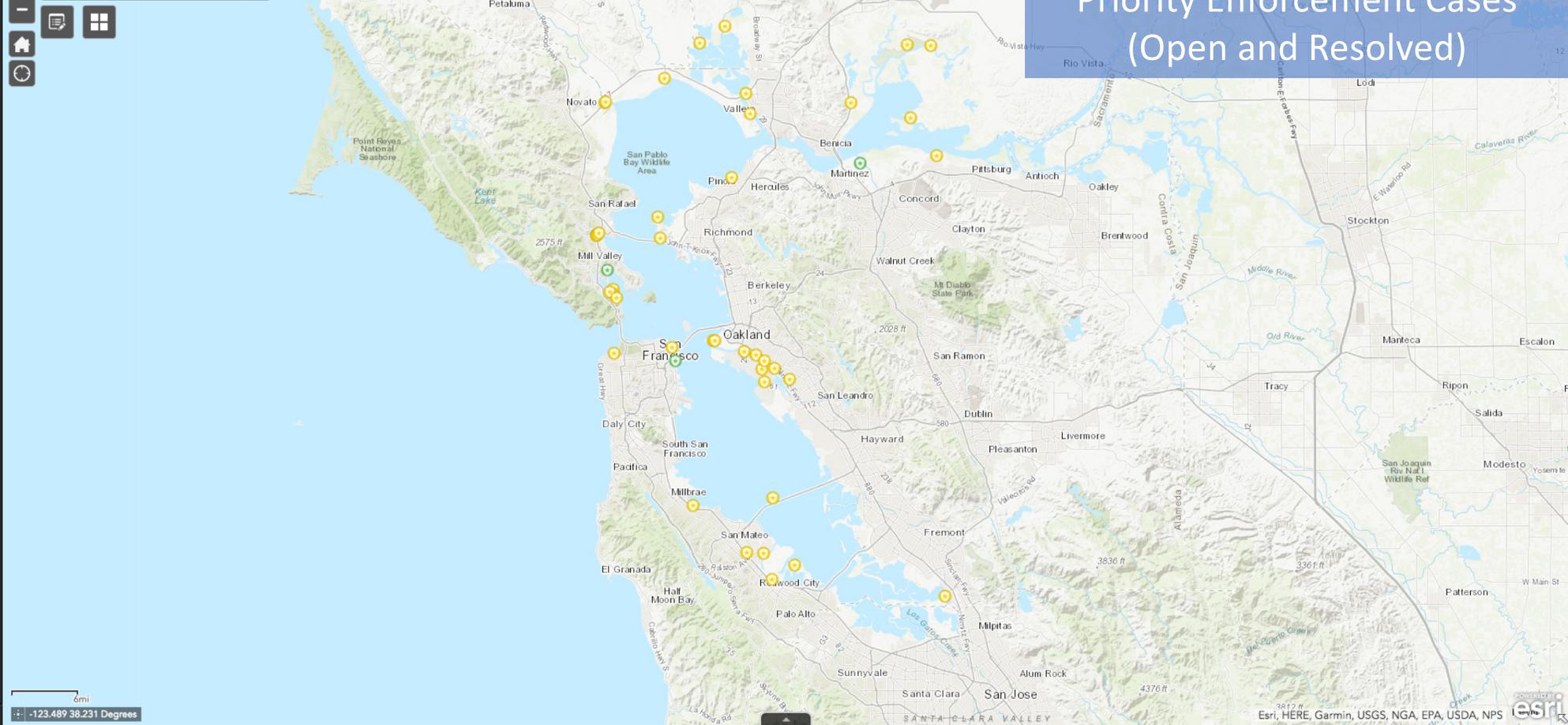


Resolved Enforcement Cases



Priority Enforcement Cases (Open and Resolved)

Find address or place

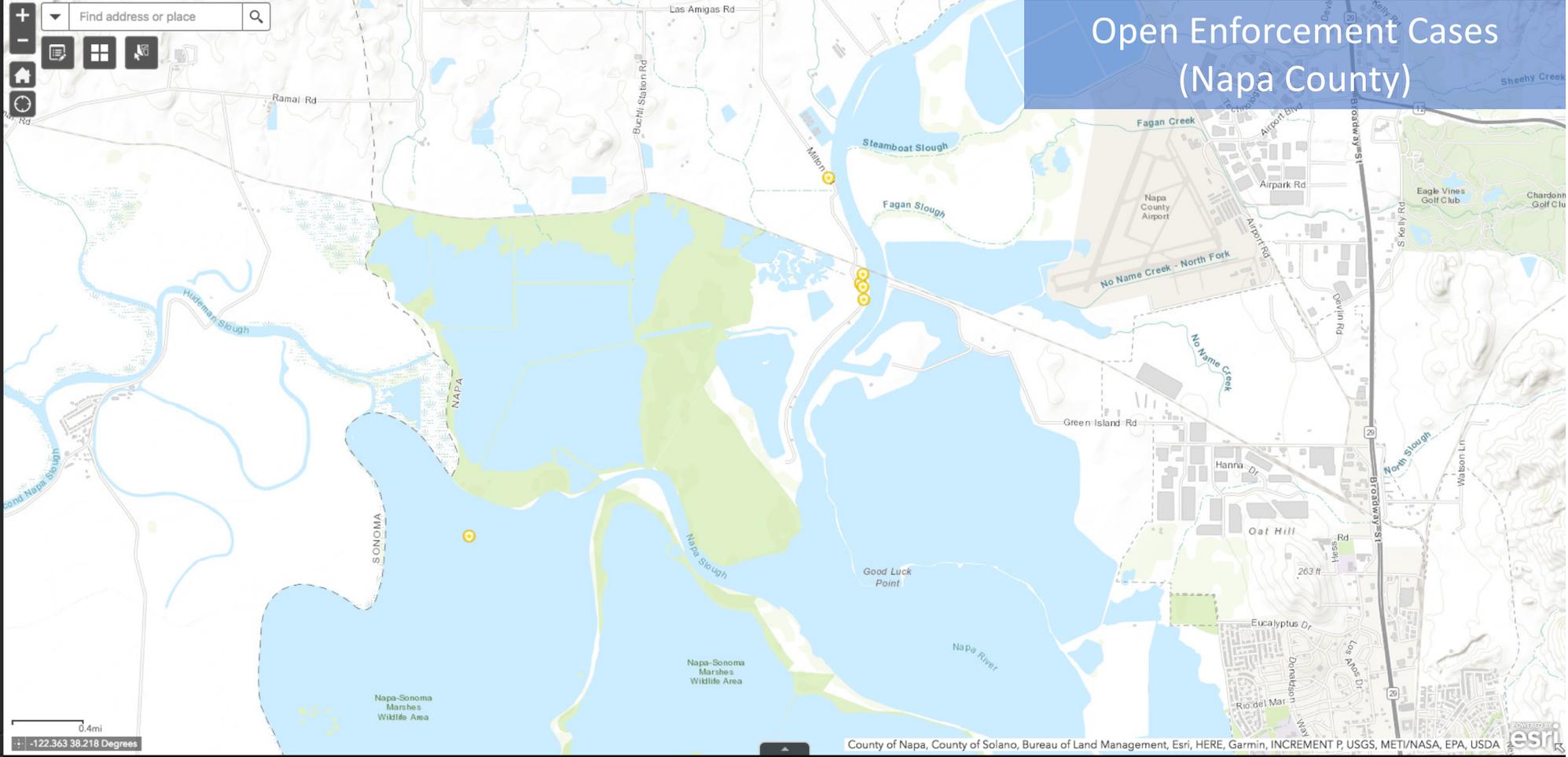


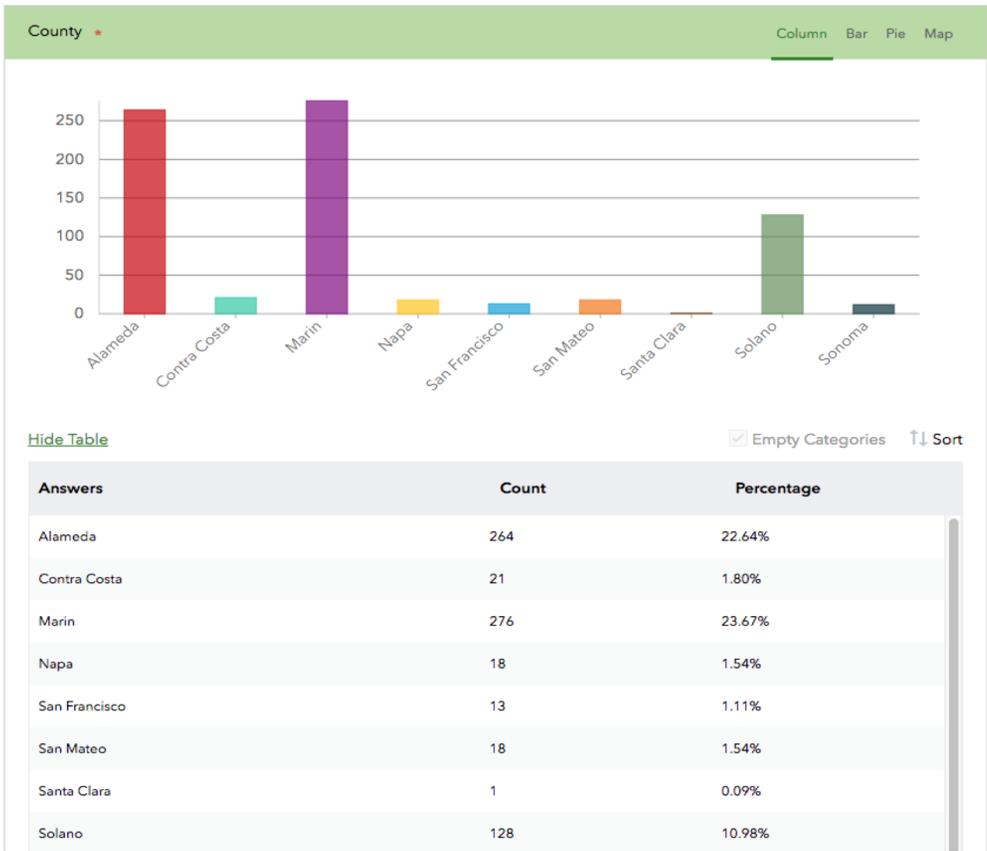
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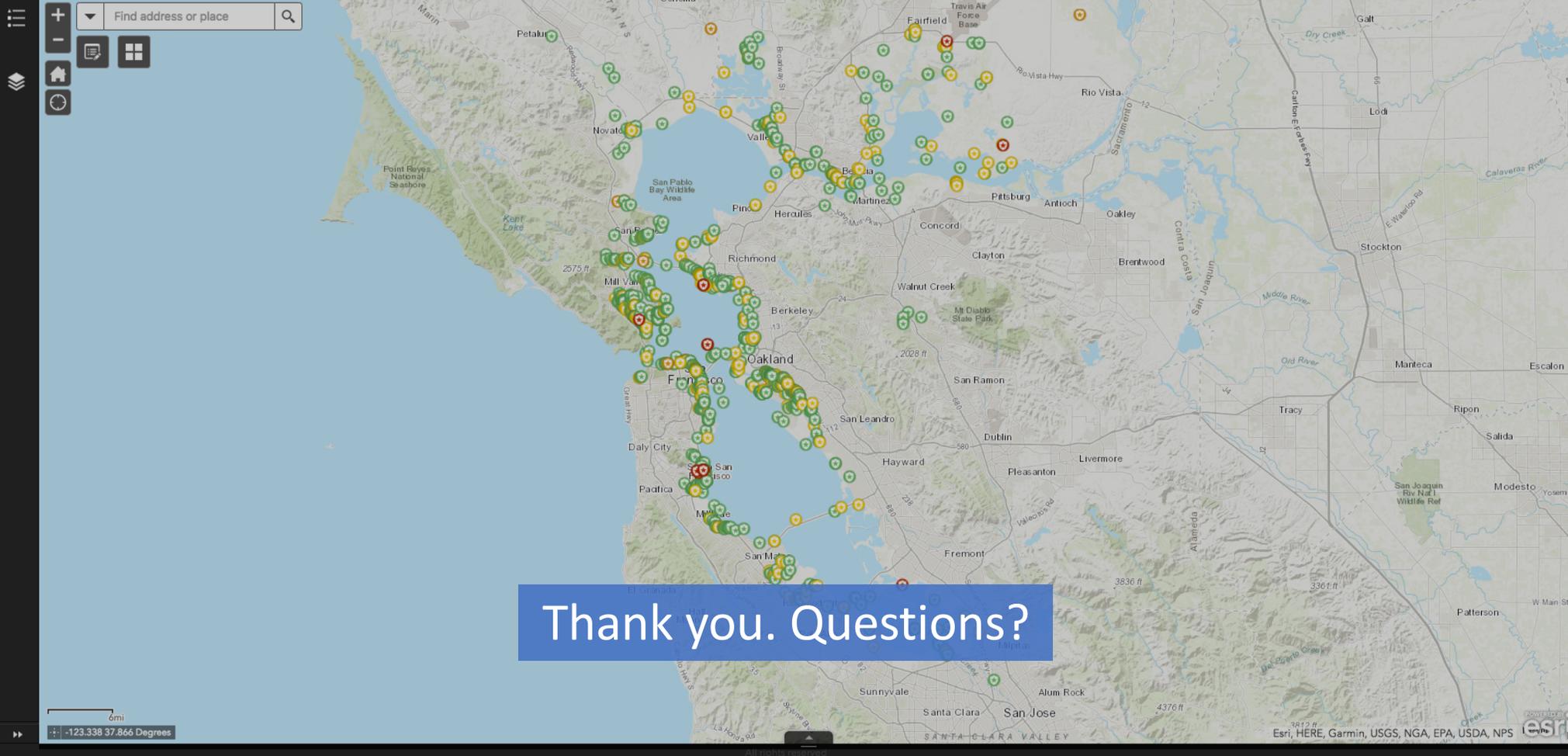
POWERED BY
Esri, HERE, Garmin, USGS, NGA, EPA, USDA, NPS



Open Enforcement Cases (Napa County)







Thank you. Questions?

Amnesty Discussion

Goal: To reduce the backlog of open (inactive) cases.

amnesty *n.*

am·nes·ty | \ 'am-nə-stē \

plural **amnesties**

: the act of an authority (such as a government) by which pardon is granted to a large group of individuals

Option 1: No Amnesty (Keep All Cases Open)

- 1A – Pursue **only** high-priority cases, do not pursue resolution of any low-priority cases.
- 1B – Pursue **primarily** high-priority cases, work on select low-priority cases as capacity allows.
- 1C – Pursue primarily low-priority cases, work on fewer high-priority cases.

Option 2: General Amnesty for Low Priority

2A – Dismiss all low-priority cases **without** notice to violators.

2B – Dismiss all low-priority cases **with** notice to violators.

Option 3: Amnesty Based on Prioritization Score

3A – Dismiss all cases under a certain prioritization score **without** notice to violators.

3B – Dismiss all cases under a certain prioritization score **with** notice to violators.

Option 4: Amnesty Based on Age

- 4A – Dismiss all inactive open cases (regardless of priority status) of a certain age **without** notice to violators.
- 4B – Dismiss all inactive open cases (regardless of priority status) of a certain age **with** notice to violators.

Option 5: Amnesty for One-Off Cases

- 5A – Dismiss all cases in which the violation consisted of a one-off occurrence with no significant persistent illegal activities or effect, **without** notice to violators.

- 5B – Dismiss all cases in which the violation consisted of a one-off occurrence with no significant persistent illegal activities or effect, **with** notice to violators.

Option 6: Amnesty for Paper Violations

6A – Dismiss **all** paper violations **without** notice to violators.

6B – Dismiss **all** paper violations **with** notice to violators.

6C – Dismiss **select** paper violations **without** notice to violators.

6D – Dismiss **select** paper violations **with** notice to violators.

Option 7: Amnesty for Payment of a Fine

- Select low-priority violators and impose a pre-determined fine.
- Consider the case resolved upon payment of fine.

Option 8: Amnesty for Resolving Violations by a Certain Deadline

- Select low-priority violators and offer no fine if violations are resolved within a certain timeframe.
- Impose a pre-determined fine for no response or for not resolving the violation by the specified deadline.

Option 9: Amnesty Decided by Enforcement Committee

Staff presents each case to the Enforcement Committee to decide whether amnesty is warranted.

Discussion

1. What should the policy goal of a BCDC Enforcement amnesty program be?
 - To resolve violations?
 - To close inactive cases/reduce backlog?
 - To free up staff resources to pursue major violators?
 - To set Enforcement priorities?
2. Do any of the suggested approaches stand out as being more or less realistic or effective?
 - Which approaches seem the most promising in terms of the best use of staff resources?
 - Which approaches seem the least promising use of staff resources?

Nine Amnesty Options

- No Amnesty
- General Amnesty for Low Priority Violations
- Amnesty Based on Prioritization Score
- Amnesty Based on Age
- Amnesty for One-Off Cases
- Amnesty for Paper Violations
- Amnesty for Payment of a Fine
- Amnesty for Resolving Violations by a Certain Deadline
- Amnesty Decided by Enforcement Committee